

Docket No. AUS9-2000-0370-US1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of: Ku et al.

Serial No.: 09/690,457

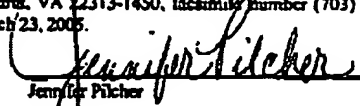
Filed: October 19, 2000

For: Monitoring Modifications to
Environment Variables§
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Group Art Unit: 2127

Examiner: Vo, Lillian

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

<p><u>Certificate of Transmission Under 37 C.F.R. 81.8(a)</u></p> <p>I hereby certify this correspondence is being transmitted via facsimile to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, facsimile number (703) 872-9306 on March 23, 2005.</p> <p>By:  Jennifer Piche</p>
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APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on January 24, 2005.

The fees required under § 41.20(B)(2), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

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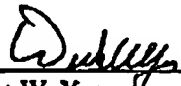
PAGE 3/29 * RCVD AT 3/23/2005 11:32:49 AM (Eastern Standard Time) * SVR:USPTO-EFEXF-1/0 * DMS:8729306 * CSID:9723857766 * DURATION (mm:ss):07-22

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to correcting modifications made to an environment variable during software installation, whereas Claim 25 is directed to managing environment variables by determining whether duplicate files exist in the directories specified by the path sequence of the environment variable, and thus Claims 9 and 25 are not co-extensive. Thus, it is shown that Claim 25 has been erroneously rejected, as a proper prima facie case of obviousness has not been established. In addition, as a prima facie case of obviousness has not been established, the burden has not shifted to Appellants to rebut an (improper) obviousness assertion. *In re Oetiker, supra*.

Appellants further urge that the Examiner is using improper hindsight with respect to the claimed step of "enabling a display of each environment variable determined to have duplicate files in the directories specified by the path sequence to a user for correction" for similar reasons to those given above with respect to Claim 7.

In conclusion, Appellants have shown numerous errors in the Examiner's final rejection of Claims 1, 6, 7, 9, 10, 15-17 and 22-32, and respectfully requests that the rejection of all such claims be reversed by the Board.



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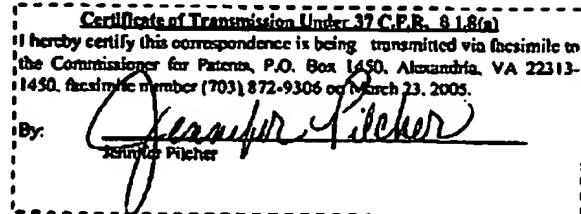
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ENCLOSED HEREWITH:

- Appeal Brief (37 C.F.R. 41.37).

A fee of \$500.00 is required for filing an Appeal Brief. Please charge this fee to IBM Corporation Deposit Account No. 09-0447. No additional fees are believed to be necessary. If, however, any additional fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,

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